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See signature page for complete list of parties represented*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

LA CLÍNICA DE LA RAZA, ET AL.,

Plaintiffs,

v.

DONALD J. TRUMP, ET AL.

Defendants.

Case No. 4:19-cv-04980-PJH

**STIPULATION RE FIRST
AMENDED COMPLAINT AND
MOTION TO DISMISS BRIEFING
SCHEDULE; DECLARATION OF
NICHOLAS ESPÍRITU; AND
~~PROPOSED~~ ORDER**

Courtroom: 3
Judge: Hon. Phyllis J. Hamilton
Trial Date: None Set
Action Filed: August 16, 2019

STIPULATION

Plaintiffs La Clínica de La Raza, African Communities Together, California Primary Care Association, Central American Resource Center, Farmworker Justice, Council on American-Islamic Relations-California, Korean Resource Center, Maternal and Child Health Access, and Legal Aid Society of San Mateo County (collectively, “Organizational Plaintiffs”) and Defendants Donald J. Trump, U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, Kenneth T. Cuccinelli, and Chad Wolf (as replacement for Kevin K. McAleenan in the official capacity of Acting Secretary of DHS) (collectively, “Defendants”), hereby stipulate, subject to the Court’s approval, as follows:

WHEREAS, the Organizational Plaintiffs filed their original Complaint on August 16, 2019 (ECF No. 1);

WHEREAS, Defendants filed a motion to dismiss this Complaint on April 22, 2020 (ECF No. 158), pursuant to this Court’s entry of the parties’ Stipulation Re Case Management Schedule on December 23, 2019 (ECF No. 147) and Order on Organizational Plaintiffs’ Motion to Compel Completion of the Administrative Record and Request for Leave to Serve Discovery on April 1, 2020 (ECF No. 157);

WHEREAS, under this District’s Local Rules, Organizational Plaintiffs’ opposition to Defendants’ motion to dismiss is due within 14 days of the Defendants’ motion, on May 6, 2020;

WHEREAS, under the Federal Rules of Civil Procedure, Rule 15(a)(1)(B), Organizational Plaintiffs have 21 days to amend as of right after service of Defendants’ motion to dismiss, which is May 13, 2020, and this Federal Rule supersedes conflicting Local Rules, *see Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1007-08 (9th Cir. 2015) (holding that a court’s local rule on briefing does not supersede the right to file an amended pleading as of right under Rule 15 and that the timely filing of an amended pleading moots a previously filed motion to dismiss);¹

¹ Defendants take no position regarding the statements of law in this paragraph.

WHEREAS, Organizational Plaintiffs, while opposing Defendants' arguments in their motion to dismiss, have decided to file a First Amended Complaint as of right under Federal Rule of Civil Procedure 15(a)(1)(B), in lieu of an opposition brief to the motion to dismiss;

WHEREAS, Organizational Plaintiffs have met and conferred with Defendants on creating a schedule for filing an amended complaint and subsequent motion to dismiss and both parties have agreed that they would benefit from extended time to prepare the pleading and briefing;

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED by counsel for Organizational Plaintiffs and Defendants, to adopt the following schedule for amending the complaint and briefing a subsequent motion to dismiss:

1. May 20, 2020: Organizational Plaintiffs file First Amended Complaint.
2. June 10, 2020: Defendants file motion to dismiss or otherwise answer the First Amended Complaint.
3. July 1, 2020: Organizational Plaintiffs file opposition brief to any motion to dismiss.
4. July 15, 2020: Defendants file reply brief to any motion to dismiss.
5. July 29, 2020: Hearing on any motion to dismiss.

Dated: May 7, 2020

Respectfully submitted,

/s/ Nicholas Espíritu
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DECLARATION OF NICHOLAS ESPÍRITU

I, Nicholas Espíritu, declare:

1. I am counsel for Plaintiffs in the above captioned matter. I submit this declaration pursuant to Local Rule 6-2. I have personal knowledge of the contents of this declaration, and I could and would testify competently to the following if called upon to do so.
2. The parties seek the requested enlargement of time in the interests of filing an amended complaint to respond to arguments raised in the motion to dismiss and for the parties to have sufficient time to substantively brief issues in the subsequent motion to dismiss, particularly given resource constraints during the COVID-19 pandemic.
3. The parties have previously stipulated to case schedules two times in this case. Pursuant to this Court's case management order (ECF No. 139), the parties stipulated in ECF No. 146 to a briefing schedule for addressing the parties' preliminary record and discovery dispute and to set a schedule for the first motion to dismiss, which this Court entered in ECF No. 147. The parties had stipulated to extend the time to file that proposed scheduling order in ECF No. 141, and this Court granted that stipulation in ECF No. 144.
4. Adopting the proposed schedule in this case will extend the deadlines under the Federal Rules of Civil Procedure, Rule 15(a), and the Local Rules of this District, Rules 7-2 and 7-3, for the Organizational Plaintiffs to file an amended complaint and for both parties to file briefing on a subsequent motion to dismiss that amended pleading by one week for each deadline. The schedule provides two weeks between the filing of the reply brief and the motion's hearing, consistent with this Court's Local Rules.
5. Pursuant to Local Rule 5-1(i)(3), I attest that I have obtained the concurrence of Joshua M. Kolsky to file this stipulation with his electronic signature.

Dated: May 7, 2020

/s/ Nicholas Espíritu

~~[PROPOSED]~~ ORDER

IT IS SO ORDERED.

Dated: May 8, 2020

Hon. Phyllis J. Hamilton
U.S. District Judge

